

REMARKS

Claims 1 - 2, 4, 8 - 10 and 12 are amended. Claims 14 - 19 are added. Claims 5 - 7 and 11 are cancelled. Claims 1 - 4, 8 - 10 and 12 - 19 remain in the case.

The Examiner found the previously submitted Declaration defective because the citizenship alteration of the inventor was not initialed or dated. A new, corrected Declaration, signed by the Inventor, is enclosed.

Claims 8, 9, and 10 were rejected under 35 U.S.C. § 112, 2d ¶, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. In particular, the Examiner stated that there was no antecedent basis for the term "apertures." Reference to having at least one aperture in the lower surface has been added to claim 4 to provide the proper antecedent basis. This Amendment should overcome the rejection under 35 U.S.C. §112, 2d ¶.

Claims 1 - 7 and 11 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Lutz (DE 38 15 990). The Examiner alleges that Lutz teaches a dolly made from four corner members 2 interconnected by a tubular frame 3/4, the corner members including an upper 6 and lower 5 members fastened to one another with threaded fasteners (col. 2, lines 31 - 36) and provided with recesses so that the fastener heads are below the top surface of the upper member. The Examiner alleges that each upper and lower member has an additional inner hollow portion, the upper member may be provided with a pair of walls 8 for accommodating a rectangular member and the upper member is also optionally provided with a rectangular groove 10 having ramped portions and a lowermost portion (at the center thereof). The Examiner further alleges that the outer lower surface of the lower member includes a mounting location for the top mounting portion of a caster in Figures 1, 2, 4, 5, and with Figures 4 and 5 illustrating an edge of the caster mounting plate. The Examiner alleges that the upper and lower members have access apertures into which the tubular members are inserted, including through channels and channels which limit the travel of the tubular members which the Examiner states are the front facing

channel of the rear corner member shown in Figure 1 of Lutz and the rear facing channel of the front corner member shown in Figure 1 of Lutz. The Examiner states that although the reference to Lutz fails to specifically teach the corner members as being made from a plastic material, plastics are very old and well known in the manufacturing arts for their light weight and resistance to corrosion and, as such, would have been obvious to one of ordinary skill in the art at the time of the invention to make the corner members taught by Lutz from plastic materials for the purpose of facilitating a lightweight cart which does not rust or corrode easily.

Although claim 1 has been amended, the rejection of claims 1 - 7 under 35 U.S.C. § 103(a) as being unpatentable over Lutz is traversed. In particular, the Examiner states that the upper and lower members are fastened to one another with threaded fasteners and provided with recesses so that the fastener heads are below the top surface of the upper member. The Examiner states that Lutz discloses these features and cites column 2, lines 31 - 36 in Lutz. However, column 2 of the Lutz disclosure is in the German language and, therefore, it appears that the Examiner is using personal knowledge to base his rejection. The Applicant requests that this personal knowledge of the German language be supported by an affidavit so that the Applicant has the opportunity to contradict or explain the rejection by other affidavits. The features of the threaded fasteners (bolts) and the recessed portions for the bolts are claimed in claims 10, 14 and 18.

Claim 1 now requires that the channel has a stop means therein for limiting the travel of the end of the tubular member where the stop means includes at least one projection extending into the channel at a predetermined location. Lutz does not show a formation extending into the channel at a predetermined location. The Examiner merely states that the end wall of one portion of the channel forms a stop. Using the end walls of the channel as a stop means will not provide a definite stop means for the tubular member in all conditions. For example, if the first tubular member is placed within the channel and is stopped by the end wall of the channel, the second tubular member placed inside the channel will be stopped by the first tubular member and not its corresponding end wall. And depending on which

tubular member is placed into the channel first, one side of the dolly can be shorter or longer than the opposing side of the dolly. Having a stop means at predetermined locations within the channel as required by the present invention guarantees that the length of the tubular members will always be the same predetermined length.

Therefore, claim 1 and its dependent claims are believed to be allowable.

Regarding new claim 14, none of the prior art shows that the apertures for receiving the bolts to connect the upper and lower elements in the exposed surface of the upper element are in a recessed portion. This feature allows the rectangular member, such as a basket, to lay flush on the dolly and not be obstructed by the bolts.

New claim 16, which is dependent upon claim 15, requires that the exposed surface has a pair of ramps leading to the groove and that the ramps are positioned essentially 90° from each other. In the Lutz disclosure, the ramps are positioned 180° from each other and therefore do not provide the advantage of being able to slide one corner of the rectangular member or basket from either angle onto the assembled member. The ramps in Lutz, which are 180° from each other, would not be beneficial on a corner assembled member, since one of the ramps would be directed toward a wall and therefore could not be easily used to insert or remove the rectangular member.

New claim 17, which is dependent upon claim 2, requires that the exposed surface of the upper element has a raised lip traversing the width of a center portion of the upper element for receiving portions of two rectangular members thereon. This claim claims the features as shown at Item 74 in Figure 6 where the member can be used to place two adjacent baskets or other rectangular members on the dolly. The advantage of the raised lip is to separate the baskets and prevent them from dislodging out of position.

New claim 18 is dependent upon claim 10 and requires that the apertures for receiving bolts are positioned in recessed portions in the exposed surface of the upper element. This feature is not shown or disclosed in the prior art.

This feature allows the basket to lay correctly on the dolly without being hindered by raised bolt heads.

New claim 19, which is dependent upon claim 10, requires that the projection extends into the channel from the interior surface of the lower element and further that the dowels extend into the hollow cavity outside of the periphery of the channel. The projection extends from the lower element so that it does not interfere with the groove formed in the upper element. Further, the dowels for receiving the bolts extend into the hollow cavity outside of the periphery of the channel so that the tubular members are not affected by the dowels in the channel. These features are not shown or disclosed in the cited prior art.

This Amendment should place this case in condition for passing to issue. Such action is requested.

Respectfully submitted,

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